

§ 609.18

Eligible Lender or DOE or other Holder, or other party servicing the Eligible Project and the Guaranteed Obligations, as applicable, or at any other time mutually convenient.

(b) The Secretary may from time to time audit any or all items of costs included as Project Costs in statements or certificates submitted to the Secretary or the servicer or otherwise, and may exclude or reduce the amount of any item which the Secretary determines to be unnecessary or excessive, or otherwise not to be an item of Project Costs. The Borrower will make available to the Secretary all books and records and other data available to the Borrower in order to permit the Secretary to carry out such audits. The Borrower will represent that it has within its rights access to all financial and operational records and data relating to Project Costs, and agrees that it will, upon request by the Secretary, exercise such rights in order to make such financial and operational records and data available to the Secretary. In exercising its rights hereunder, the Secretary may utilize employees of other Federal agencies, independent accountants, or other persons.

§ 609.18 Deviations.

To the extent that such requirements are not specified by the Act or other applicable statutes, DOE may authorize deviations on an individual request basis from the requirements of this part upon a finding that such deviation is essential to program objectives and the special circumstances stated in the request make such deviation clearly in the best interest of the Government. DOE will consult with OMB and the Secretary of the Treasury before DOE grants any deviation that would constitute a substantial change in the financial terms of the Loan Guarantee Agreement and related documents. Any deviation, however, that was not captured in the Credit Subsidy Cost will require either additional fees or discretionary appropriations. A recommendation for any deviation shall be submitted in writing to DOE. Such recommendation must include a supporting statement, which indicates briefly the nature of the deviation re-

quested and the reasons in support thereof.

PART 611—ADVANCED TECHNOLOGY VEHICLES MANUFACTURER ASSISTANCE PROGRAM

Subpart A—General

Sec.

- 611.1 Purpose.
- 611.2 Definitions.
- 611.3 Advanced technology vehicle.

Subpart B—Direct Loan Program

- 611.100 Eligible applicant.
- 611.101 Application.
- 611.102 Eligible project costs.
- 611.103 Application evaluation.
- 611.104 [Reserved]
- 611.105 Agreement.
- 611.106 Environmental requirements.
- 611.107 Loan terms.
- 611.108 Perfection of liens and preservation of collateral.
- 611.109 Audit and access to records.
- 611.110 Assignment or transfer of loans.
- 611.111 Default, demand, payment, and collateral liquidation.
- 611.112 Termination of obligations.

Subpart C—Facility Funding Awards

- 611.200 Purpose and scope.
- 611.201 Applicability.
- 611.202 Advanced Technology Vehicle Manufacturing Facility Award Program.
- 611.203 Eligibility.
- 611.204 Awards.
- 611.205 Period of award availability.
- 611.206 Existing facilities.
- 611.207 Small automobile and component manufacturers.
- 611.208–611.209 [Reserved]

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Subpart A—General

§ 611.1 Purpose.

This part is issued by the Department of Energy (DOE) pursuant to section 136 of the Energy Independence and Security Act of 2007, Public Law 110–140, as amended by section 129 of Public Law 110–329. Specifically, section 136(e) directs DOE to promulgate an interim final rule establishing regulations that specify eligibility criteria and that contain other provisions that

Department of Energy

§611.2

the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section.

§611.2 Definitions.

The definitions contained in this section apply to provisions contained in both subpart A and subpart B.

Adjusted average fuel economy means a harmonic production weighted average of the combined fuel economy of all vehicles in a fleet, which were subject to CAFE.

Advanced technology vehicle means a passenger automobile or light truck that meets—

(1) The Bin 5 Tier II emission standard established in regulations issued by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), as of the date of application, or a lower-numbered Bin emission standard;

(2) Any new emission standard in effect for fine particulate matter prescribed by the Administrator under that Act (42 U.S.C. 7401 *et seq.*), as of the date of application; and

(3) At least 125 percent of the harmonic production weighted average combined fuel economy, for vehicles with substantially similar attributes in model year 2005.

Agreement means the contractual loan arrangement between DOE and a Borrower for a loan made by and through the Federal Financing Bank with the full faith and credit of the United States government on the principal and interest.

Applicant means a party that submits a substantially complete application pursuant to this part.

Application means the compilation of the materials required by this part to be submitted to DOE by an Applicant. One Application can include requests for one or more loans and one or more projects. However, an Application covering more than one project must contain complete and separable information with respect to each project.

Automobile is used as that term is defined in 49 CFR part 523.

Borrower means an Applicant that receives a loan under this Program.

CAFE means the Corporate Average Fuel Economy program of the Energy Policy and Conservation Act, 49 U.S.C. 32901 *et seq.*

Combined fuel economy means the combined city/highway miles per gallon values, as are reported in accordance with section 32904 of title 49, United States Code. If CAFE compliance data is not available, the combined average fuel economy of a vehicle must be demonstrated through the use of a peer-reviewed model.

DOE or *Department* means the United States Department of Energy.

Eligible Facility means a manufacturing facility in the United States that produces qualifying advanced technology vehicles, or qualifying components.

Eligible Project means:

(1) Reequipping, expanding, or establishing a manufacturing facility in the United States to produce qualifying advanced technology vehicles, or qualifying components; or

(2) Engineering integration performed in the United States for qualifying advanced technology vehicles and qualifying components.

Engineering integration costs are the costs of engineering tasks relating to—

(1) Incorporating qualifying components into the design of advanced technology vehicles; and

(2) Designing tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced technology vehicles.

Equivalent vehicle means a light-duty vehicle of the same vehicle classification as specified in 10 CFR part 523.

Financially viable means a reasonable prospect that the Applicant will be able to make payments of principal and interest on the loan as and when such payments become due under the terms of the loan documents, and that the applicant has a net present value that is positive, taking all costs, existing and future, into account.

Grantee means an entity awarded a grant made pursuant to section 136 and this Part.

Light-duty vehicle means passenger automobiles and light trucks.